



***Board of Zoning Appeals Public Hearing
June 21, 2016 — 7:00 P.M***

CASE NUMBER:	V-16-015
PROPERTY LOCATION:	340 Lake Manor Trace, Johns Creek, GA 30097 1st District, 1st Section, Land Lot 304
CURRENT ZONING:	CUP (Community Unit Plan) Conditional
PARCEL SIZE:	.40 Acres
PROPERTY OWNERS:	Tsang Wenlong & Wu Qunmei
STAFF RECOMMENDATION:	APPROVAL WITH CONDITIONS

REQUEST

The existing residence, located at 340 Lake Manor Trace, was constructed in 1998 and is approximately 3,450 square feet. The applicant is requesting a stream buffer variance to alter 460-square feet in the 75-foot no impervious surface setback and 50-foot undisturbed stream buffer, for the construction of a three story addition and deck. The proposed addition is 270-square feet, of which 251-square feet is in the 75-foot no impervious surface setback and 19-square feet is located in the 50-foot undisturbed stream buffer. The proposed deck measures ten-feet by nineteen-feet, totaling 190-square feet, and is located entirely within the 50-foot undisturbed stream buffer. The project in total encroaches 36-feet; however, the first 13-feet of encroachment is already existing, as it is a part of the existing house.

The proposed addition is located on the west side of the rear elevation and will be used as sunroom extensions off of the living room and master bedroom. A deck, patio slab and concrete walkway exist in the rear of the house currently. The three-story addition will be clad in fiber-cement siding to match the existing rear elevation. The proposed deck will be constructed of wood and will extend from the second story.

The proposed construction will not encroach into the 25-foot state undisturbed buffer.

BACKGROUND

The subject property, 340 Lake Manor Trace, is lot number 5 within Unit 8 A and B, Phase 2 of the Medlock Bridge subdivision off of Medlock Bridge Road. This lot was originally platted in Fulton County with a 35-foot tributary buffer around the lake. The final plat also shows a sanitary sewer easement and drainage easement on the lot.

Portions of the existing home, concrete patio, and concrete walkway encroach into the 75-foot no impervious surface setback and the existing deck encroaches into the 75-foot no impervious surface setback and the 50-foot undisturbed buffer.

ADJACENT ZONING AND LAND USES

Adjacent properties to the north, east, and west are zoned CUP (Community Unit Plan) Conditional pursuant to Fulton County zoning case Z-95-038, and are in the Medlock Bridge subdivision (Unit 8 A and B, Phase 2). The properties to the south are zoned R-4A (Single Family Dwelling) Conditional pursuant to Fulton County zoning case Z-91-056, and are in the Medlock Bridge subdivision (Unit 6, Phase 2) as well.

APPLICABLE CODE REQUIREMENTS

City Code; Chapter 109: Natural Resources & Environmental Protection; Article V: Stream Buffer Protection; Section 109-118: Land Development Requirements.

- (i) An undisturbed natural vegetative buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the point of wretched vegetation.
- (ii) An additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.

VARIANCE REQUIREMENTS

Staff is including the specific conditions that must be considered for a variance to be granted in an effort to assist the Board of Zoning Appeals in considering the application and its merits. These considerations include:

- (i) When a property's shape, topography or other physical conditions existing at the time of the adoption of this ordinance prevents land development unless a buffer variance is granted.
- (ii) Unusual circumstances when strict adherence to the minimal buffer requirements in the ordinance would create an extreme hardship.

ADDITIONAL STREAM BUFFER CONSIDERATIONS

Stream buffers are the areas of land immediately adjacent to the banks of state waters which facilitate the protection of water quality and aquatic habitat. Buffers also preserve green space, improve aesthetics, reduce stormwater runoff velocities, help control flooding, and keep stream water cool by providing shade. These buffers must remain undisturbed in their natural state during and after construction, however variances can be obtained that allow for encroachment under certain conditions. Stream buffers are regulated on both the state and local levels and each agency has different rules regarding buffer widths. The Georgia Environmental Protection Division (EPD) requires 25 foot buffers on both sides of a stream, measured from the point of wretched vegetation which is usually located at the tops of the banks. The City of Johns Creek requires an undisturbed buffer of 50 feet with an additional 25 feet where all impervious surfaces are prohibited. Variance applications may be granted on a case by case basis provided the applicant submit information showing the location of the stream, the extent of encroachment, and documentation of the unusual hardship should the buffer be maintained. These variance applications must also provide mitigation measures to offset the impacts of land development or disturbance on the proposed property. Although allowed by ordinance, granting of stream buffer variances should be kept to a practicable minimum in order to preserve water quality and minimize flood risks from future, upstream development. The location and extent of buffer encroachment, long term water quality impacts, and potential, less intrusive alternate designs are all factors to be considered in determining

whether to issue a variance. Stream Buffer Variances granted by the City of Johns Creek are subject to annual audits by the Metropolitan North Georgia Water Planning District and the EPD. The City must ensure that consistency and thorough examination to long term impacts are considered in order to justify granting variances.

STAFF RECOMMENDATION

The subject property was platted in Fulton County with a lake and a 35-foot tributary buffer. The applicant intends to demolish the existing deck, and add a three-story addition in a similar footprint. 251-square feet of impervious surface will be located in the 75-foot no impervious surface setback and 19-square feet will be located in the 50-foot undisturbed stream buffer, totaling 270-square feet of impervious. The applicant is also proposing a ten foot by nineteen foot new deck, with all 190-square feet of new impervious located entirely within the 50-foot undisturbed stream buffer. The total impervious surface for the project totals 460-square feet.

The Department would note that the applicant has submitted a replanting plan to mitigate the proposed 460-square-foot intrusion into the stream buffer with an assortment of large trees, small trees, shrubs, and groundcover. It appears that this plan meets the stream buffer mitigation that is required.

In light of the subject property having had the ability to implement the proposed improvement on the lot without a variance based on the original final plat, the applicant's agreement to implement an adequate mitigation plan; the Department of Community and Development recommends **APPROVAL WITH CONDITIONS** of this request.

The Department would note that, should the variance be granted by the Board of Zoning Appeals on the merits of this request, the construction of the addition and deck, as well as the proposed mitigation plan, must be executed on the site without removal of existing vegetation or the use of heavy machinery as this will increase the encroachment of the 50-foot undisturbed buffer. The contractor has stated that the limits of disturbance will not increase past the footprint of the addition and/or deck.

RECOMMENDED CONDITIONS

Based upon the findings and conclusions herein, Staff recommends **APPROVAL with conditions** of this request, subject to the following conditions of approval:

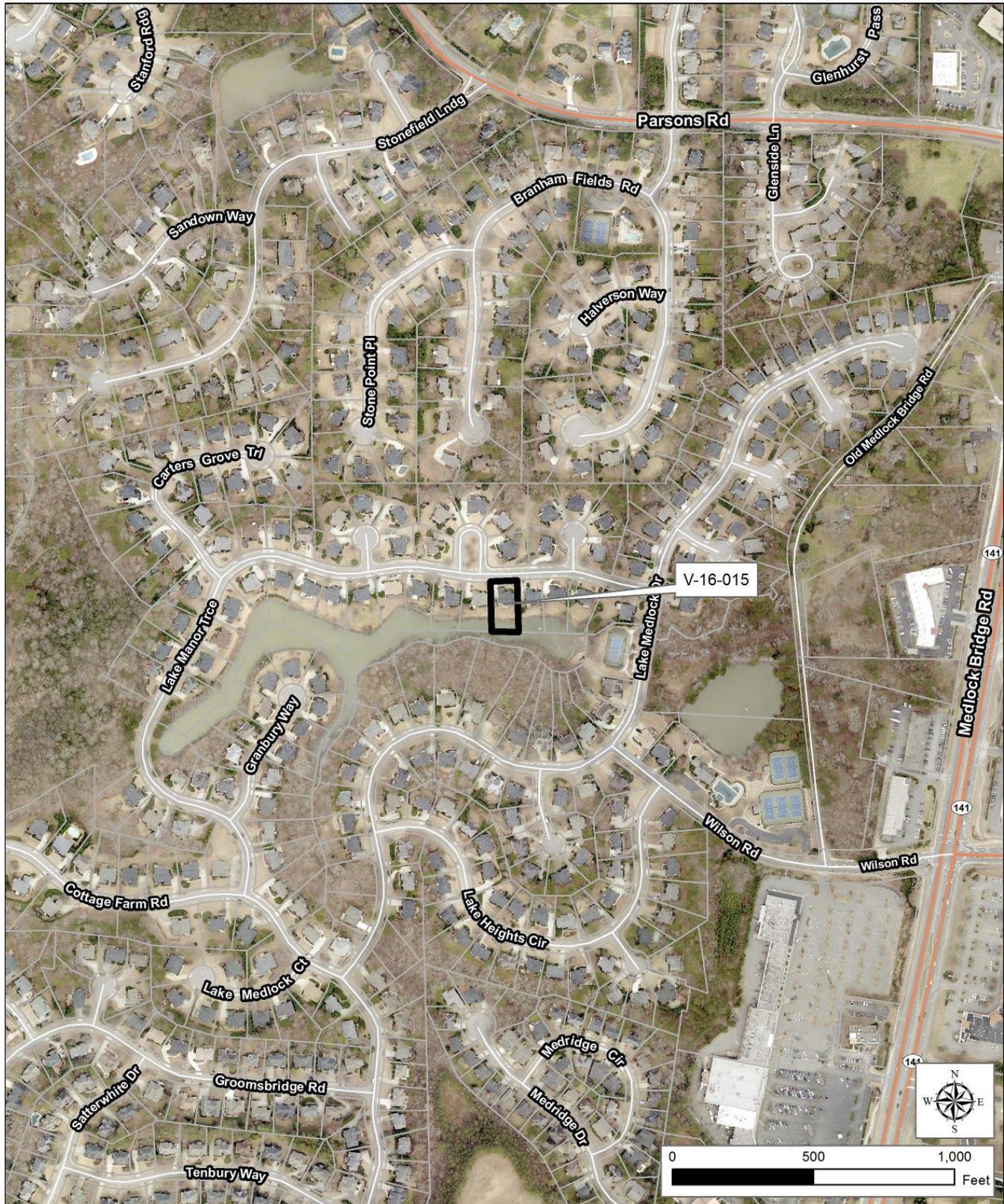
- 1) The three-story addition and proposed deck shall be limited to no more than 460-square feet of new impervious and disturbance within the 75-foot no impervious setback and 50-foot undisturbed buffer, as shown on the site plan received on May 23, 2016.
- 2) The applicant is required, prior to issuance of a certificate of completion, to replant vegetation on the subject property to offset any adverse impact associated with the additional disturbance/impervious surface closer to the stream. Replanting of vegetation shall be consistent with the submitted mitigation plan dated May 19, 2016 or an alternative plan approved by the City Arborist.
- 3) Obtain required building permits from the City of Johns Creek Community Development Department prior to commencement of construction.

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